

EXHIBIT B

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May 4, 2016

VIA ECF AND ELECTRONIC MAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
Bernstein.chambers@nysb.uscourts.gov

Re: *Picard v. Laura Ann Smith Revocable Living Tr.*, Adv. Pro. No. 10-05184 (SMB)
Picard v. RAR Entrepreneurial Fund, Ltd., Adv. Pro. No. 10-04352 (SMB)
Picard v. Wilenitz et al., Adv. Pro. No. 10-04995 (SMB)

Dear Judge Bernstein:

We are counsel to Irving H. Picard, as trustee (“Trustee”) for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* and the estate of Bernard L. Madoff. We write in response to Mr. Dexter’s May 2, 2016 letter on behalf of Defendants in the above-referenced actions,¹ and in further support of our April 6, 2016 letter in *Picard v. Wilenitz* [ECF No. 63] seeking permission to file a motion for a protective order on certain discovery served by Defendants.

I. The Trustee’s Request for Leave to File a Motion for a Protective Order in *Wilenitz*

In *Wilenitz*, the discovery served by Defendants is outside the scope of Federal Rule of Civil Procedure 26 and, in some instances, was clearly served for the improper purpose of harassment. *See* Exhibit A, the Trustee’s written responses and objections, and in particular, Nos. 10-12.

¹ The Trustee is represented by Windels Marx Lane & Mittendorf in connection with *Picard v. Roger Reckler Revocable Trust*, Adv. Pro. No. 10-04474 (SMB) and *Picard v. Reckson Generation et al.*, Adv. Pro. No. 10-05135 (SMB). It is our understanding that a response to Mr. Dexter’s May 2, 2016 letter will be filed separately in those matters.

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In this litigation, the Trustee has already produced virtually all possible relevant discovery to the Defendant that is non-objectionable. This includes approximately 1,900 records concerning the alleged transfers and an additional approximately four million records provided in a searchable electronic data room (“E-Data Room 1”) that are relevant to BLMIS’s fraud and insolvency. Given the nature of the strict liability transfer avoidance claims asserted by the Trustee in this case, issues of relevancy ought to be very straightforward.

Nonetheless, the requests at issue are overwhelmingly focused on several purported “affirmative defenses” regarding the Trustee’s standing and due process that this Court explicitly rejected in its omnibus decision on the motions to dismiss, in which this Defendant participated. *See* Mem. Dec. Regarding Omnibus Motions to Dismiss, as entered in *Picard v. Wilenitz, et al.*, Adv. Pro. No. 10-04995 (SMB), [ECF No. 36]. Even putting these concerns aside, these requests are facially objectionable on other grounds and most have no possible relevance to the *Wilenitz* case. *See* Ex. A.

Most egregiously, the Defendant continues to pursue discovery that this Court specifically prohibited in three cases—information concerning the Trustee’s compensation from his firm.² Given the clear and unambiguous prior orders of this Court and additional courts in which defense counsel has pressed this same issue, there can be no possible good faith basis on which it has again been asserted here. Accordingly, the Trustee respectfully asserts he will be entitled to sanctions under 28 U.S.C. § 1927 and/or the Court’s inherent powers in connection with having to re-litigate these same issues. *See, e.g., Siderpali, S.P.A. v. Judal Industries, Inc.*, 833 F. Supp. 1023 (S.D.N.Y. 1993) (same, and noting that “court is empowered to hold an attorney who multiplies the proceedings in any case unreasonably and vexatiously personally liable for excess costs, expenses, and attorney’s fees incurred as a result of his or her improper conduct.”) (internal quotations omitted); *cf. Keller v. Mobil Corp.*, 55 F.3d 94, 99 (2d Cir. 1995) (discussing standard for sanctions under 28 U.S.C. § 1927, and noting that “resubmitting a motion that had previously been denied” justifies sanctions).

As such, the Trustee respectfully requests permission to move this Court for a protective order on these requests.

II. Subpoenas for Bank Records in RAR and Laura Ann Smith Cases

Chaitman LLP is again burdening the Court with the same objections to bank subpoenas that counsel raised on behalf of different defendants—and this Court squarely rejected—at the March 23, 2016 conference. *See, e.g., Picard v. Saren-Lawrence*, Adv. Pro. No. 10-04898 (SMB) [ECF No. 91]. Chaitman LLP is needlessly and improperly multiplying and duplicating

² Undeterred, and notwithstanding Judge Daniels’ recent rejection of Ms. Chaitman’s motion for leave to appeal this Court’s rejection of an affirmative defense raising due process rights, for which the discovery concerning the Trustee’s compensation was originally sought, Ms. Chaitman has nonetheless again sought leave to appeal the exact same issue, this time under the guise of seeking leave to appeal this Court’s March 18, 2016 Order granting a protective order over this specific discovery. *Picard v. Dusek*, Adv. Pro. No. 10-04644 (SMB) [ECF No. 50], *Picard v. Nelson*, Adv. Pro. No. 10-04658 (SMB) [ECF No. 51]; *Picard v. Nelson, et al.*, Adv. Pro. No. 10-04377 (SMB) [ECF No. 49]. That motion was assigned to Judge Pauley and is set for oral argument on May 12, 2016.

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litigation by seeking to re-litigate the exact same issues again. In fact, Chaitman LLP has already burdened this Court with multiple motions on these exact same issues in prior cases, including motions to quash, motions to dismiss, and motions for temporary and permanent injunctions, all of which were rejected by this Court. *See id.* There are no different circumstances present in the instant cases that would enable the Defendants to argue in good faith that any different conclusion should be reached here.

Further, we are not aware of any applicable rule requiring the Trustee to hold the subpoenas in abeyance pending the resolution of a party objection. In fact, the Court explicitly stated in those cases that: “the banks were required to comply with the subpoenas, to which they did not object on their own account absent a protective order.” *See Saren-Lawrence*, March 23, 2016 Hearing Tr. 54:10-16 [ECF No. 91]. While we defer to any further instruction from the Court, we believe that any stay of the subpoenas would be particularly inappropriate under the circumstances here and particularly given the ongoing destruction of relevant bank records due to the passage of time.

Therefore, the Trustee respectfully requests that the Court deny all relief requested in Mr. Dexter’s May 2, 2016 letter and instead, permit the Trustee to file a motion for a protective order in *Wilenitz* for the reasons described above and in the Trustee’s April 6, 2016 letter. The Trustee is available for a conference if the Court deems it appropriate under the circumstances and in light of the Court’s March 23, 2016 ruling.

Respectfully submitted,

/s/ Edward J Jacobs
Edward J. Jacobs

Enclosure

cc: Helen Davis Chaitman (hchaitman@chaitmanllp.com)
Gregory M. Dexter (gdexter@chaitmanllp.com)
Chaitman, LLP
465 Park Avenue
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EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendants.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

TRUST U/ART FOURTH O/W/O ISRAEL
WILENITZ, EVELYN BEREZIN WILENITZ,
individually, and as Trustee and Beneficiary of the
Trust U/ART Fourth O/W/O Israel Wilenitz, and
SARA SEIMS, as Trustee of the Trust U/ART Fourth
O/W/O Israel Wilenitz,

Defendants.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04995 (SMB)

**TRUSTEE IRVING H. PICARD'S RESPONSES AND OBJECTIONS TO
DEFENDANTS' DOCUMENT DEMANDS AND INTERROGATORIES**

Irving H. Picard (the "Trustee"), as trustee for the liquidation of Bernard L. Madoff Investment Securities LLC ("BLMIS"), under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III ("SIPA"), and the estate of Bernard L. Madoff by and through the Trustee's counsel, Baker & Hostetler LLP, hereby provides the following Responses and Objections to the First Set of Interrogatories ("Interrogatory" or "Interrogatories") served by Defendants Trust U/ART Fourth O/W/O Israel Wilenitz, Evelyn Berezin Wilenitz, individually, and as Trustee and Beneficiary of the Trust U/ART Fourth O/W/O Israel Wilenitz, and Sara Seims, as Trustee of the Trust U/ART Fourth O/W/O Israel Wilenitz (collectively, the "Defendants") on March 8, 2016.

OBJECTION TO DEFINITIONS

1. The Trustee objects to the term "Identify" (with respect to persons) in Definition 1(c) as inconsistent with Local Rule 26.3(c)(3) of the United States District Court for the Southern District of New York and this Court, insofar as it purports to require the Trustee to identify "the relationship between such person and (i) the Responding Party, (ii) Madoff, and/or (iii) BLMIS." The Trustee will respond to Interrogatories containing "Identify" (with respect to persons) as it is defined by Local Rule 26.3(c)(3).

2. The Trustee objects to the term "Identify" (with respect to documents) in Definition 1(d) as inconsistent with Local Rule 26.3(c)(4) of the United States District Court for the Southern District of New York and this Court, insofar as it purports to require the Trustee to identify the "Bates-Stamp Number if said document has previously been produced or filed in E-Data Room." The Trustee will respond to Interrogatories containing "Identify" (with respect to documents) as it is defined by Local Rule 26.3(c)(4).

3. The Trustee objects to the term “Identify” in Definitions 7 and 8 as inconsistent with Local Rules 26.3(c)(3)-(4) of the United States District Court for the Southern District of New York and this Court. The Trustee will respond to Interrogatories containing “Identify” as it is defined by Local Rules 26.3(c)(3)-(4).

OBJECTION TO INSTRUCTIONS

1. The Trustee will respond to these Document Demands and Interrogatories consistent with Rules 26, 33 and 34 of the Federal Rules of Civil Procedure, Rules 7026, 7033, and 7034 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), applicable Local Civil Rules of the United States District Court for the Southern District of New York and this Court (the “Local Rules”), and any applicable orders of the Court, including the Court’s June 6, 2011 Litigation Protective Order [ECF No. 4137] and October 17, 2013 Order on the Third-Party Data Rooms [ECF No. 5475] (the “Third-Party Data Room Order”).

SOURCES OF INFORMATION RELEVANT TO THE CLAIMS OR DEFENSES IN THE TRUSTEE’S POSSESSION, CUSTODY OR CONTROL

1. Hard-copy documents from the offices of BLMIS, offsite storage used by BLMIS, and other locations (“Hard-Copy BLMIS Documents”).

2. Electronic documents obtained from among approximately 20,000 pieces of media from the offices of BLMIS, offsite storage used by BLMIS, and other locations (“BLMIS Electronic Documents” or “BLMIS ESI”).

3. Documents produced by third parties to the Trustee during his investigation or adversary proceedings (“Third-Party Documents”).

I. BLMIS DOCUMENTS

From the Hard-Copy BLMIS Documents and BLMIS ESI (collectively, “BLMIS Documents”), the Trustee created a searchable electronic database containing approximately 4.7 million Hard-Copy BLMIS Documents and 25 million BLMIS Electronic Documents (“the **BLMIS Searchable Database**”). Defendants do not have direct access to the BLMIS Searchable Database because it contains documents relating to thousands of customers, many of which are not relevant to this proceeding. Instead, the Trustee provides all Defendants in these proceedings with documents as described below:

A. Proof of BLMIS’s Fraud and Insolvency: The Trustee created E-Data Room 1 from documents in the BLMIS Searchable Database as well as some Third-Party Documents. E-Data Room 1 contains documents relevant to the issues of the fraud conducted at BLMIS and its insolvency, and includes documents relating to BLMIS operations, regulatory disclosures, and financial records. *See Appendix A* for a description of documents available to Defendants in E-Data Room 1.

B. BLMIS Core Account Documents: The Trustee identified and segregated BLMIS core account documents for all customers (“Core Account Documents”). These Core Account Documents include account opening agreements, correspondence to and from BLMIS, transfer and/or redemption requests, customer statements, Portfolio Management and/or Portfolio Management Transaction Reports, which contain transaction history, and other documents that were specific to each account, and/or the Trustee’s calculation of net equity of a particular BLMIS account. Collectively, the Core Account Documents and the Bank Transfer Documents represent the documents produced to the Defendants by the Trustee with his initial disclosures

(the “Initial Disclosure Documents”), on April 1, 2016. *See Appendix B* for a summary of the Core Account Documents produced. The Core Account Documents produced are for Defendants’ accounts, 1CM806 and 1CM837, and the accounts affecting the principal balance calculation of Defendants’ accounts, 1CM000, 1CM007, 1CM188, and 1CM807.

C. Proof of Transfers: In addition to the Core Account Documents relevant to transfers described above, the Trustee identified and segregated BLMIS bank account records that reflect transfers to customers. Collectively, the Core Account Documents and the Bank Transfer Documents represent the documents produced to the Defendants by the Trustee with his initial disclosures (the “Initial Disclosure Documents”), on April 1, 2016. *See Appendix C* for a summary of the Bank Transfer Documents produced.

D. Other Documents: The Trustee preserved the nearly 20,000 pieces of BLMIS ESI and millions of pages of BLMIS Hard-Copy Documents in his possession, but did not include all such documents in the BLMIS Searchable Database. The Trustee did not process or scan, for example, backup tapes believed to contain redundant data, some floppy disks or CDs, and broken media. In responding to discovery requests, the Trustee does not search for BLMIS documents outside of the BLMIS Searchable Database. The Trustee will produce additional BLMIS Documents (meaning other than those described in Paragraphs A and B) from the BLMIS Searchable Database provided that the parties agree to narrowly tailored case-specific search terms and parameters that target documents relevant to the claims or defenses and

but which are redundant, cumulative, or marginally relevant (for example, the Defendants' names or account numbers appear on a list of customer names or account numbers and there is no other unique information). The Trustee objects to the production of these Documents to the extent that such production is not proportionate to the needs of the case under Federal Rule 26(b)(1) ("Redundant, Cumulative, and Marginally Relevant Documents").

3. **Information Outside the Scope of Relevance:** The Trustee objects to the disclosure of any information or identification of any Documents outside the scope of relevance articulated in Federal Rule 26 and Section 4(G) of the Litigation Procedures Order ("Information Outside the Scope of Relevance").

RESPONSES TO DOCUMENT DEMANDS AND INTERROGATORIES

REQUEST NO. 1:

List the name and address of every former BLMIS employee with whom you spoke about the meaning of entries on the customer statements and state the substance of what you questioned each person about and what that person told you. Produce all documents you reviewed with each such employee and all documents indicating what each person said.

RESPONSE:

The Trustee objects to this Interrogatory and Document Request because it calls for Materials Prepared Post-December 11, 2008. The Trustee further objects that it seeks Information Outside the Scope of Relevance because it calls for documents that relate to customers other than the *Wilenitz* Defendants, and such documents are not relevant to the claims or defenses or proportional to the needs of the *Wilenitz* case. For these reasons, the Trustee will

Wilenitz Defendants ever brought any errors to the attention of BLMIS; nor have they pointed out any errors to the Trustee or set forth a specific, good-faith statement that they dispute any particular transaction. To the contrary, the *Wilenitz* Defendants have admitted in their claims submission to the Trustee that the BLMIS records match their personal bank records. *See* Appendix F, Defendants' June 26, 2009 claims submission.

REQUEST NO. 3:

List every single factual error asserted by any Madoff or BLMIS customer in their statements and produce all documents relating to such error.

RESPONSE:

Trustee's Response to this is the same as Trustee's Response to No. 2.

REQUEST NO. 4:

List every single "PW" entry on a customer statement where there is no documentary evidence that the customer requested to receive profit withdrawals and produce all documents relating thereto.

RESPONSE:

The Trustee objects to this Interrogatory on the grounds it seeks Information Outside the Scope of Relevance because it calls for information that relates to customers other than the *Wilenitz* Defendants, and such information is not relevant to the claims or defenses or proportional to the needs of the *Wilenitz* case. There are no PW entries on the customer statements for the *Wilenitz* accounts. There is one or more PW transactions in accounts affecting the net equity of the *Wilenitz* accounts and such customer statements were included in the Initial

Disclosure Production. The Trustee states pursuant to Federal Rule 33(d)(1) that Defendants may determine the response to this request by reviewing the Initial Disclosure Production and that the burden of ascertaining the information is substantially the same for either party. Notwithstanding that information about other BLMIS customers is not relevant to the *Wilenitz* case, the Trustee will produce a list of PW transactions that indicates whether the transaction reconciles to BLMIS bank records, customer files, or documents produced to the Trustee. This list was made available in connection with the Trustee's Motion Affirming Treatment of Profit Withdrawal Transactions, ECF Nos. 10660-10664, attached as Exhibit 7 to the Declaration of Lisa M. Collura, ECF No. 10664.

REQUEST NO. 5:

If you contend that Madoff's and BLMIS' customer statements were not "riddled with fraud" with respect to the deposits and withdrawals, produce all reports and documents on which you base that conclusion.

RESPONSE:

The Trustee objects to this Interrogatory because it violates Local Rule 33.3(c), which prohibits interrogatories that "seek the claims and contentions of the opposing party" until after the conclusion of other discovery unless the Court has ordered otherwise. This Interrogatory seeks information about the Trustee's contentions. Discovery is ongoing in *Wilenitz*. Defendants have not sought permission from the Court to ask contention interrogatories.

While the foregoing protects the Trustee from having to respond at all to this Interrogatory, the Trustee nonetheless states that he further objects to this Interrogatory and

Document Request to the extent that it calls for “reports and documents” that are Materials Prepared Post-December 11, 2008. The Trustee will not produce such materials.

The Trustee also objects to the unexplained use of “riddled with fraud” with respect to the customer statements, and has no way of knowing the source of that quote. As the Trustee explained during the meet and confer about this Interrogatory, it is the Trustee’s position that the cash activity reflected in the BLMIS customer statements is accurate and not fraudulent.

The Trustee also objects to the Interrogatory and Document Request because it seeks Information Outside the Scope of Relevance. Specifically, this Interrogatory and Document Request seeks information that is not relevant to the claims or defenses or proportional to the needs of the *Wilenitz* case given that it calls for information and documents relating to thousands of other BLMIS customers. The Trustee further responds that, with respect to the cash activity and principal transactions that affect the principal balance calculation (or net equity) in the *Wilenitz* accounts, the Trustee has not identified any fraud. Further, the *Wilenitz* Defendants have not pointed out any fraud in the *Wilenitz* customer statements to the Trustee; nor they have pointed out any fraud to the Trustee or set forth a specific, good-faith statement that they dispute any particular transaction. To the contrary, the *Wilenitz* Defendants have admitted in their claims submission to the Trustee that the BLMIS records match their personal bank records. *See* Appendix G, Defendants’ claims submission.

Finally, the Trustee objects to the extent this Interrogatory prematurely seeks to have the Trustee disclose expert materials well in advance of the deadline for disclosure of this information as provided in the Court-approved case management order entered in this adversary proceeding. The Trustee will supplement his productions with additional documents considered

by his experts, if any, following submission of their expert reports during expert discovery. The Trustee further notes that to the extent fact witness relied on by the Trustee may also qualify as expert witnesses pursuant to Federal Rule 26(a)(2)(C), the Trustee will identify such witnesses in expert discovery.

REQUEST NO. 6:

As of the date you respond to these interrogatories, list every customer whose allowed claim has not been paid in full and state the amount of that customer's allowed claim and the amount that customer has received to date. Produce all documents from which you derived your answer. If you take the position that you cannot reveal the names of the account holders, list the accounts by account number and indicate whether the account is (a) an individual; (b) a hedge fund; (c) a family investment fund; (d) an IRA account; or some other category.

RESPONSE:

The Trustee objects to this Interrogatory and Document Request because it seeks information that is not relevant to the claims or defenses or proportional to the needs of the *Wilenitz* case given that it calls for information relating to claimants other than *Wilenitz*. The Trustee responds specifically as to the *Wilenitz* Defendants, and states their claims have not been allowed.

REQUEST NO. 7:

With respect to your most recent distribution to allowed claimants, how much did you distribute in total and how much did you distribute to each allowed claimant. Produce all documents evidencing the distribution schedule including a list of the amount paid to each claimant, showing the name of each claimant. If you take the position that you cannot reveal the

names of the account holders, list the accounts by account number and indicate whether the account is (a) an individual; (b) a hedge fund; (c) a family investment fund; (d) an IRA account; or some other category.

RESPONSE:

The Trustee objects to this Interrogatory and Document Request seeks information that is not relevant to the claims or defenses or proportional to the needs of the *Wilenitz* case given that it calls for information that (i) is not relevant to the issue of whether the Trustee may avoid and recover the avoidable transfers from the *Wilenitz* Defendants and (ii) relates to hundreds of claimants other than the *Wilenitz* Defendants. The Trustee responds specifically as to the *Wilenitz* Defendants, and states their claims have not been allowed and, accordingly, no interim distribution was made to them. The Trustee further refers the Defendants to information regarding the claims process and interim distributions, located on the Trustee's website at www.madofftrustee.com.

REQUEST (UNNUMBERED)

List the name of every customer who sold an allowed claim to a claims purchaser, the amount paid to the customer by the claims purchaser, the allowed amount of the claim, and the date of the purchase. Produce all documents from which you derived your answer.

RESPONSE:

The Trustee's Response to this is the same as Trustee's Response to No. 7.

REQUEST NO. 8:

List every claims purchaser to whom you have made payment and state the amount, to date, that you have paid each claims purchaser.

RESPONSE:

The Trustee objects to this Interrogatory and Document Request because it seeks information that is not relevant to the claims or defenses or proportional to the needs of the *Wilenitz case*. The information called for by this Interrogatory has no bearing on whether the Trustee may avoid and recover the avoidable transfers in the *Wilenitz case*. For this reason, the Trustee will not respond to this Interrogatory and Document Request.

REQUEST NO. 9:

Provide a list of every allowed claim with the amount of the allowed claim. If you take the position that you cannot reveal the names of the account holders, list the accounts by account number and indicate whether the account is (a) an individual; (b) a hedge fund; (c) a family investment fund; (d) an IRA account; or some other category.

RESPONSE:

The Trustee's Response to this is the same as Trustee's Response to No. 7.

REQUEST NO. 10:

State the precise fee arrangement you have had with Baker & Hostetler LLP from inception of your appointment as Trustee. Produce the document which sets forth that compensation arrangement.

RESPONSE:

The Trustee states that, in light of the March 18, 2016 Order Implementing Court's March 17, 2016 Bench Ruling Granting Protective Order, the Trustee is not required to respond to Interrogatory No. 10. *See* Adv. Pro. No. 08-01789, Docket No. 12912.

REQUEST NO. 11:

State the precise amount you have received in compensation since joining Baker & Hostetler LLP in December 2008 through the date you respond to these interrogatories. Produce all documents from which you derived your answers.

RESPONSE:

The Trustee states that, in light of the March 18, 2016 Order Implementing Court's March 17, 2016 Bench Ruling Granting Protective Order, the Trustee is not required to respond to Interrogatory No. 11. *See* Adv. Pro. No. 08-01789, Docket No. 12912.

REQUEST NO. 12:

In the event that any other attorney at Baker & Hostetler LLP receives a percentage of the gross fee revenues relating to this proceeding other than you, state the name or names of such persons and the precise fee arrangement each of them has with Baker & Hostetler LLP Produce all documents from which you derived your answers.

RESPONSE:

The Trustee states that, in light of the March 18, 2016 Order Implementing Court's March 17, 2016 Bench Ruling Granting Protective Order, the Trustee is not required to respond to Interrogatory No. 12. *See* Adv. Pro. No. 08-01789, Docket No. 12912.

REQUEST NO. 13:

List the name, address and phone number of every BLMIS employee who worked in the market-making business and in the proprietary trading business as of January 1, 2008 and explain his/her function and compensation.

RESPONSE:

The Trustee objects to Interrogatory No. 13 to the extent it seeks Information Outside the Scope of Relevance. The Trustee nonetheless states that, approximately 4 million documents that relate to the operations of BLMIS are in E-Data Room. The purpose of E-Data Room 1, among others, was so that the Trustee could produce documents relating to the operations of BLMIS on a global basis. It is not proportional to the needs of the case in *Wilenz* to respond to this Interrogatory and require the Trustee to undertake any additional burden when the Defendants have not requested access to the source of more than 4 million documents which includes lists of BLMIS employees. The Trustee directs the Defendants to MADTNN00081805 located in E-Data Room 1, which lists the persons employed by BLMIS, to the best of the Trustee's knowledge, for a time period including January 1, 2008. The Trustee also directs the Defendants to Bates No. FIDTAA0000166-FIDTAA0000325, located in E-Data Room 1, that contains additional information responsive to this request. In addition, attached as Exhibit A is a list of readily available employee addresses and phone numbers we were able to identify after a reasonable search. We make no representations as to the accuracy of any the contents of Exhibit A.

REQUEST NO. 14:

Explain the basis on which you determined that the Defendants have no net equity and produce the front and back of each deposit into and withdrawal from the Account and from any account which transferred funds into the Defendants' account.

RESPONSE:

In a meet and confer regarding these Interrogatories and Requests, defense counsel clarified that this Interrogatory should state, "produce the front and back of each check deposited

into and withdrawn from the Account and from any account which transferred funds into the Defendants' account."

The Trustee responds that the Trustee's expert calculated the principal balance by reviewing the Initial Disclosure Documents, which were produced to Defendants on April 1, 2016.

It is not proportional to the Wilenitz case for the Trustee to be required to produce the backs and fronts of every check deposited into and withdrawn from the Defendants' accounts and from any account which transferred funds into the Defendants' account when the Defendants have not set forth a specific, good-faith reason that the calculation is incorrect.

Finally, the Trustee objects to the extent this Interrogatory prematurely seeks to have the Trustee disclose expert materials well in advance of the deadline for disclosure of this information as provided in the Court-approved case management order entered in this adversary proceeding. The Trustee will supplement his productions with additional documents considered by his experts, if any, following submission of their expert reports during expert discovery. The Trustee further notes that to the extent fact witness relied on by the Trustee may also qualify as expert witnesses pursuant to Federal Rule 26(a)(2)(C), the Trustee will identify such witnesses in expert discovery.

REQUEST NO. 15:

Explain how you intend to establish that Madoff was insolvent in each year from 1960 – 2000 and produce all documents on which you will rely to establish insolvency for each of those years.

RESPONSE:

The Trustee responds that he intends to put forth an expert on the insolvency of BLMIS. The documents upon which the expert relies to establish insolvency are in E-Data Room 1.

The Trustee objects to the extent this Interrogatory prematurely seeks to have the Trustee disclose expert materials well in advance of the deadline for disclosure of this information as provided in the Court-approved case management order entered in this adversary proceeding. The Trustee will supplement his productions with additional documents considered by his experts, if any, following submission of their expert reports during expert discovery. The Trustee further notes that to the extent fact witness relied on by the Trustee may also qualify as expert witnesses pursuant to Federal Rule 26(a)(2)(C), the Trustee will identify such witnesses in expert discovery.

REQUEST NO. 16:

Provide the gross trading volume by both number of shares traded and total dollar volume for each year of Madoff's operation, broken down by (a) investment advisory business (b) proprietary trading business; and (c) market making business. Produce the documents on which you base your responses.

RESPONSE:

The Trustee objects to this Interrogatory because it violates Local Rule 33.3(c), which prohibits interrogatories that "seek the claims and contentions of the opposing party" until after the conclusion of other discovery unless the Court has ordered otherwise. This Interrogatory seeks information about the Trustee's contentions. Discovery is ongoing in Wilenitz. Defendants have not sought permission from the Court to ask contention interrogatories.

While the foregoing protects the Trustee from having to respond at all to this Interrogatory, the Trustee nonetheless states that there were no securities purchased by the investment advisory business unit, of which the *Wilenitz* Defendants were customers. With respect to the proprietary trading business and the market making business units, records from BLMIS and third parties, including the Depository and Trust Clearing Corporation (“DTCC”), which reflect trading activity by those business units of BLMIS, are in E-Data Room 1. The purpose of E-Data Room 1, among others, was to provide Defendants, including the *Wilenitz* Defendants, the documents upon which the Trustee relies to establish that no trades were being made by the investment advisory business unit and that no trades were being made by the market making and proprietary trading business unit on behalf of customers of the investment advisory business unit. It is not proportional to the needs of the case in *Wilenitz* to respond to this Interrogatory and Document Request and require the Trustee to undertake any additional burden when the Defendants have not requested access to the source of more than approximately 4 million responsive documents or articulated a specific reason as to whether and why the Defendants contend that BLMIS was not a fraudulent enterprise scheme or insolvent during the relevant time period.

Finally, the Trustee objects to the extent this Interrogatory prematurely seeks to have the Trustee disclose expert materials well in advance of the deadline for disclosure of this information as provided in the Court-approved case management order entered in this adversary proceeding. The Trustee intends to establish the insolvency of BLMIS through his experts. The Trustee will supplement his productions with additional documents considered by his experts, if any, following submission of their expert reports during expert discovery. The Trustee further notes that to the extent fact witness relied on by the Trustee may also qualify as expert witnesses

pursuant to Federal Rule 26(a)(2)(C), the Trustee will identify such witnesses in expert discovery.

REQUEST NO. 17:

Provide the number of employees who worked in each of the trading areas set forth in interrogatory # 17 for each year of Madoff's operations and produce the documents on which you base your responses.

RESPONSE:

The Trustee's Response to this is the same as Trustee's Response to No. 13.

REQUEST NO. 18:

For each security listed on the Defendants' account statements for each year from 1982 on, set forth the number of shares of the listed companies' stock that BLMIS held at that time; and, if the stock was specified as belonging to a particular customer, specify the customer and the number of shares shown on BLMIS' records as being owned by that customer. Produce the documents on which you base your responses.

RESPONSE:

The Trustee states pursuant to Federal Rule 33(d)(1) that Defendants may determine the response to this request for Defendants by comparing the DTCC records in E-Data Room 1 with the Initial Disclosure Documents and that the burden of ascertaining the information is substantially the same for either party.

AS TO OBJECTIONS:

BAKER & HOSTETLER LLP

Dated: April 8, 2016
New York, New York

By: /s/ David J. Sheehan

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*Attorneys for Irving H. Picard, Trustee for
the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff
Investment Securities LLC and the Estate
of Bernard L. Madoff*

VERIFICATION

STATE OF NEW YORK)
)
COUNTY OF NEW YORK)

I, Irving H. Picard, as the Court-appointed Trustee of the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and Bernard L. Madoff, hereby state that the foregoing Interrogatory Responses and Objections (“Responses”) have been assembled and prepared by my counsel. I sign for purposes of being bound by the foregoing Responses, but further state that as the Trustee, I have no personal knowledge of the facts and information herein. The Responses set forth herein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presently recollected, and/or thus far discovered in the course of the preparation of these Responses. Consequently, I reserve the right to make changes to the Responses if at any time it appears that an error or omission has been made therein or if additional or more accurate information becomes available.

Dated: April 8, 2016



Irving H. Picard

EXHIBIT A

Last Name	First Name	Street Address	City	State	Zip Code	Phone Number 1	Phone Number 2
Abend	Reed	330 East 70th St - Apt 1G	New York	NY	10021	212-517-3162	(W) 203-838-4600 (H) 203-454-2411
Anderson	Semone	3115 Edson Ave	Bronx	NY	10469	718 320 1450	(c) 347 203-9987 (h) 718 320-145C
Arroyo	Richard	113 Adams Ave	Staten Island	NY	10306	718 987-0964	
Astuto	Toniann	65 Stuyvesant Ave	Staten Island	NY	10312	718-984-6978	212 221 5858 x 3146
Barutcuoglu	Zafer	328 West 11th Street Apt 3H	New York	NY	10014		
Batalion	Sally	787 East 5th St	Brooklyn	NY	11218	718-871-2263	212 980-7500
Bergstrom	Ase	335 112 Plymouth Road	West Palm Beac	FL	33405		
Berkowitz	Peter	18 Tall Timber Road	Mount Kisco	NY	10549		
Birch	Larry	6 Narrowbrook Court	Plainsboro	NJ	08536		
Bongiorno	Annette	78 Stone Hill Dr East	North Hills	NY	11030	516-365-0357	718 845-9163
Bonventre	Daniel	505 East 79th St - Apt 17G	New York	NY	10021	212-734-2343	212 734-3098
Bonventre	Daniel M.	505 East 79th St - Apt 17G	New York	NY	10021	212-734-2343	212 734-3098
Bonventre	John	5 24 East 79th Street Apt 2H	New York	NY	10075		
Brown	Clive	6 Gould Ave	Dobbs Ferry	NY	10522	914-693-8447	
Bruttomesso	Garrett	229 Chrystie Street Apt 516	New York	NY	10002		
Buchmueller	Elizabeth	525 East 13th Street Apt 4F	New York	NY	10009		
Burger-Joel	Amy	50 Sutton Pl South - Apt 11J	New York	NY	10022	212-308-2050	
Cacas Jr.	Eduardo	20 Linda Lane	Pearl River	NY	10965		
Camvycis	Thomas	85 East End Ave - Apt 3M	New York	NY	10028	212-794-4692	
Cardile	Robert	1041 Rector Road	Bridgewater	NJ	08807	908-725-9442	718-738-1260
Carlson	David	37 London Terr	New Rochelle	NY	10804	914-632-1888	(w) 914 721-2726
Carrero	David	360 West 43rd Street Apt S10f	New York	NY	10036		
Carroll	Richard	3682 Southwest Bimini Cl North	Palm City	FL	34990	561-288-0407	
Chen	Terrence	1793 Riverside Dr 2H	New York	NY	10034		
Clarke	Prunella	1372 New York Ave - Apt 2G	Brooklyn	NY	11203	718-826-3689	
Cohn	Leon	1616 59th St	Brooklyn	NY	11204	718-234-2919	718-234-2919
Colin	Stephani	208 Harris Rd DA-1	Bedford Hills	NY	10507	914-241-3639	914 232-5458,914 841-9462
Collado	Ralph	46-07 204th St	Bayside	NY	11361	718-423-1684	718-423-1684
Collins	Richard	100 Elgar Pl - Apt 21L	Bronx	NY	10475	718-320-4201	718-588-8303
Concepcion	Darlene	53 All Angels Hill Rd	Wappingers Fall	NY	12590	845-298-1570	
Connelly	Andrew	43 West Summit Ave	Midland Park	NJ	07432	201-444-9326	
Copersino	Albert	22 Manitou Road	Westport	CT	06880		
Cotellessa-Pitz	Enrica	91-11 107th Ave	Ozone Park	NY	11417	718-738-8636	
Coughlin	Edward	8 Rogers Ct	Midland Park	NJ	07432	201-445-9530	201 445-9530
Crupi	JoAnn	436 Grove St	Westfield	NJ	07090	908-317-9080	908 236-9001
De Lisi	Frederick	120 Carteret St	Staten Island	NY	10307	718-967-4129	WK:1-800-774-4333, Ext.8317 HM:718-967-4125
Delgado	Iris	84-38 90th Street	Woodhaven	NY	11421		
Di Maggio	Juliette	310 Maddock Street	West Palm Beac	FL	33405		
DiPascali	Frank	1400 Mountaintop Road	Bridgewater	NJ	08807		
Dirilo	Praxides	322 East 57th St	New York	NY	10022	212 755-2671	
Distenfeld	Eric	638 Sunderland Road	Teaneck	NJ	07666		
Dolinsky	Craig	2 Azalea Ct	East Brunswick	NJ	08816	732-390-1383	732-251-4300
Duffy	Daniel	213 Embree Ct	Westfield	NJ	10552	908-654-0334	908-654-0334
Eckhaus	Daniel	248 West 21st Street Apt 1c	New York	NY	10011		
Eisen	Barry	108 East 96th St Apt - 12G	New York	NY	10028	212-987-2195	
Esbenshade	Zi-Yah	107 East 88th St - Apt 5D	New York	NY	10028	212-534 3455	717 392 8734 - 646 279-6231
Falcone	Robert	52 Egbert Ave	Staten Island	NY	10310	718-720-5731	718 720-5125

Ferraro	Jeffrey	50-31 211 St	Bayside	NY	11364 718-224-1016	718 224-1016
Ferraro	Marc	175 Rockaway Ave	Garden City	NY	11530 516-294-0844	
Fleischmann	Barry	268 Kell Ave	Staten Island	NY	10314 718-494-0449	
Fleming	Junior	4155 Baychester Avenue	Bronx	NY	10466	
Flores	Enrique	152 Graham Ave	New York	NY	11206 718-387-4925	
Fong	Kevin	562 Blueberry Pl	Franklin Lakes	NJ	07417 201-848-7670	
Friedman	Steven	34 Old Mill Road	West Harrison	NY	10604	
Fuller	Tracey	567 Nostrand Avenue	Brooklyn	NY	11216	
Garcia	Vincent	1 Warwick Ct	River Edge	NJ	07661 201-488-9104	201 488-9104
Garcia	Patricio	15 East 35th Street	Bayonne	NJ	07002	
Gavlik	Margaret	100 Bradford Ave	Rye	NY	10580 914 698 6592	(C) 914 420-8545/(h) 914 835-4948
Glassman	Brett	245 East 63rd St - Apt 827	New York	NY	10021 212 223 0786	212 223 0786
Goldman	Mark	223 East 85th St - Apt 30	New York	NY	10028 212-472-5375	
Gross	Jason	1641 West 2nd St - 2nd Fl	Brooklyn	NY	10022 516-694-1866	
Gutzwiller	Mark	14 Franklin Avenue	Westport	CT	06880	
Hernrajani	Haresh	15 Tiffany Court	Old Bridge	NJ	08857	
Hoey	Rolland	80 Calvin A venue	Syosset	NY	11791	
Horwitz	Daniel	27 Stoner Ave	Great Neck	NY	11021 516-466-5971	516 466 5971
Hutchinson	Kenneth	355 Fifth St - 2nd Fl	Brooklyn	NY	11215 718-832-7379	
Imbruce	Gregory	93 Rockledge Drive	Stamford	CT	06903	
Jackson	Winifrier	1220 Croes Ave - Apt 5D	Bronx	NY	10472 718-589-3027	718 515-6414
Jacobson	Jeffrey	30 West 61st St - Apt 18B	New York	NY	10023 212-582-0064	
Jimenez	Anthony	82-15 35th Ave - Apt 3F	Jackson Heights	NY	11372 718 457-0158	
Jones	Belle	80-35 Springfield Blvd - Apt 3G	Queens Village	NY	11427 718-468-3439	
Jones	Richard	801 Allwyn St	Baldwin Harbor	NY	11510 516-867-2926	516 532 7353
Jorgensen	George	9 Pippin Ln	Wappingers Fall	NY	12590 845-208-1105	845 298-1105
Kanning	Robert	37 Sutton Road	Ho Ho Kus	NJ	07423	
Kelly	John	31 Washington Mews	Portchester	NY	10573 914 934-1388	
Khan	Dorothy	166-10 Foch Blvd	Jamacia	NY	11434 718-527-8207	718 978-0442
King	Seon	537 East 85th St	Brooklyn	NY	11236 718-251-1096	
Konigsberg	Stephen	55 West 14th Street Apt 7N	New York	BY	10011	
Koster	Deborah	860 U.N. Plaza - Apt 15B	New York	NY	10017 212-750-5768	212 355-7159
Kugel	David	69 Charney Court	Manhasset	NY	11030 516-627-0411	516 627-0411
Kugel	Craig	21 Soundview Lane	Sands Point	NY	11050	
Lamb	Cheryl	4063C Palm Bay Cl	West Palm Beac	FL	33406 561-478-4806	
Lanier	Adam	522 West Webster Avenue	Roselle Park	NJ	07204	
Larsen	Jean	349 East 49th Street Apt 2P	New York	NY	10017	
Lenaghan	Jonathan	4705 Center Boulevard Apt 2513	Long Island City	NY	11109	
Lipkin	Eric	315 East Ridgewood Ave - Apt 1F	Ridgewood	NJ	07450 201-689-2260	561-495-8424
Lipkin	Irwin	15408 Strathearn Drive	Delray Beach	FL	33446	
Lorenzo	Andrew	1303 East 52nd St	Brooklyn	NY	11234 718 444-2190	
Madoff	Shana	420 East 54th St - Apt 33 A	New York	NY	10022 212-317-1448	212 230 2424,212 246 3898 (Maria 646 752 4191)
Madoff	Andrew	400 East 84th Street Apt 36 B	New York	NY	10028	
Madoff	Peter	34 Pheasant Run	Old Westbury	NY	11568	
Madoff	Marion	34 Pheasant Run	Old Westbury	NY	11568	
Madoff	Mark	158 Mercer Street	New York	NY	10012	
Magnus	Dumarsais	217-16 Hempstead Ave	Queens Village	NY	11429 718-776-2735	
Marasa	Gaetano	67 Marianne St	Staten Island	NY	10302 718-948-4178	718 984-7782

Mastrangelo	Ralph	277 Leverett Ave	Staten Island	NY	10308 718-356-2356	(H) 718 356-2356/(J) 212 306-4738
Mayer	Leonard	45 Sutton Pl South - Apt 3F	New York	NY	10022 212-688-8429	212-688-8429
McDonald	Christopher	8 Second Avenue	Ossining	NY	10562	
McGuire	Kevin	29 Wyckoff Street	Brooklyn	NY	11201	
McMahon	Robert	34 Prall Road	Hillsborough	NJ	08844	
Mehta	Neilay	225 Columbus Avenue Apt 4E	New York	NY	10023	
Moy	Peter	163 Hurlbert St	Staten Island	NY	10305 718-980-4293	718-980-4293
Mui	Alethea	175-19 68th Ave	Fresh Meadows	NY	11365 718-460-2189	212 403-1516/(b) 917 878-879C
Murray	Damien	1226 Intervale Ave at 169th St	Bronx	NY	10459 718-617-1375	
Nabile	Walid	121 Russell St	Staten Island	NY	10308 718 227-0914	718 227-0914
Nano	Glenn	17 5 East 2nd Street Apt 4D	New York	NY	10009	
Nasi	William	153-34 59 Ave	Flushing	NY	11355 718-461-2146	
Noer	Martin	39-52 44th Street	Sunnyside	NY	11104	
Nunez	Rafael	35-63 88th St - Apt 2L	Jackson Heights	NY	11372 718-898-8533	718 205-2476
O'Hara	Jerome	94 Scarcliffe Dr	Malverne	NY	11565 516-887-0705	516 227-0700
Oritz	Magdalena	37 Irving St	Jersey City	NJ	07307 201-963-6267	201 536-0577
O'Toole	Elizabeth	347 Court Street	Brooklyn	NY	11231	
Padala	Matthew	207 East 74th Street Apt 5A	New York	NY	10021	
Pagan	Rafael	2323 Cambreleng Avenue	New York	NY	10458	
Pechatnikov	Yefim	46 Oceanside A venue	Staten Island	NY	10305	
Pennachio	Daniel	19 Eleventh St	Carle Place	NY	11514 516-333-7972	Parents Phone (516-775-8627)
Perez	George	5 Horizon Rd - Apt 2804	Fort Lee	NJ	07024 201-224-9329	718 665-7209
Perez	Raul	155 W 68th St - Apt 1617	New York	NY	10023 212 769-2517	212-769-2517
Persaud	Sharda	93-31 205th Street	Hollis	NY	11423	
Reardon	Erin	21 Wirt Ave	Staten Island	NY	10309 718-948-5156	718 948-3719
Rosenberger	Jamie	40 Harrison Street 32B	New York	NY	10013	
Sanchez	Frankie	111-32 66th Avenue Apt 1B	Forest Hills	NY	11375	
Scharlop	Benjamin	152-28 Melbourne Ave - Apt 232	Flushing	NY	11367 718-263-7795	516-482-2726
Schwartz	Robert	3278 Amelia Dr	Mohegan Lake	NY	10547 914-245-5420	914 245-5420
Semboo	Sharda	185-01 Liberty Ave	St Albans	NY	11412 718-454-4435	
Shapiro	Stanley	983 Park Avenue	New York	NY	10028	
Shaps	Ryan	242 Coverly Avenue	Staten Island	NY	10301	
Sharr	Henry	2424 East 11th St - Apt 2B	Brooklyn	NY	11235 718-646-5181	
Shaw	Christopher	421 Hudson Street Apt 718	New York	NY	10014	
Shen	Hong	820 Cricket Ln	Woodbridge	NJ	07095 732-855-1743	908 755-8137
Sheredos	Robert	906 West Meadow Drive	Bound Brook	NJ	08805	
Sibbley	Lebert	601 East 19th St - Apt 4D	Brooklyn	NY	11226 718-434-4740	
Sibbley	Errol	227 West 2nd Street	Mount Vernon	NY	10550	
Sobel	Richard	19 Clover Lane	Westport	CT	06880	
Solomon	Elaine	500 East 77th St - Apt 416	New York	NY	10162 212-772-7035	212 772-7035
Sondike	Brett	418 Oceanfront	Long Beach	NY	11561 516-431-3666	(W) 212 213-7916
Squillari	Eleanor	594 Davis Ave	Staten Island	NY	10310 9718-420-4725	212-902-2212 Lawrence work
Sroka	Heath	30 I East 66th Street Apt 3M	New York	NY	10021	
Stahl	Richard	16 Cliff Ave	Darien	CT	06820 203-662-1112	203 662-1112
Stampfli	Joshua	72 Hillcrest Ave	Manhasset	NY	11030 516-869-5822	
Suazo	Joseph	415 Ridgefield Rd	Hauppauge	NY	11788 631-265-2514	631-265 2514 or 516 742-4992
Sullivan	Stefanie	175 West 87th St - Apt 19F	New York	NY	10024 212-873-8460	203- 966-4395
Sutton	Kurt	315 East 86th Street Apt 17JE	New York	NY	10028	

Taratunio	Debi	180 Ardmore Ave	Staten Island	NY	10314 718-698-4946	
Tiletnick	Peter	77-15 113th Street Apt 30	Forest Hills	NY	11375	
Tiletnick	Walter	440 East 13th St	New York	NY	11009 212-677-6737	
Torres	Elvis	79-17 153rd Avenue	Howard Beach	New York	11414 718-848-7023	
Tringali	Barbara	1807 West 7th St	Brooklyn	NY	11223 718-376-4054	
Vicinelli	Paolo	15 Dante Street	Larchmont	NY	10538	
Voigt	Hendrick	1 Independence Court Apt 611N	Hoboken	NJ	07030	
Ward	Laurence	310 East 46th St - Apt 12L	New York	NY	10017 212-972-9847	212 972 9847
Warrin	Christopher	96 East River Road	Rumson	NJ	07760	
Watkins	Michella	1589 Unionport Rd - Apt 7H	Bronx	NY	10462 718-863-8334	803-289-1259
Weber	Robert	406 Tarrytown Ave	Staten Island	NY	10306 718-987-2585	718 980-9793
Westhuis	Kathryn	531 East 20th Street Apt 3D	New York	NY	10010	
Wharton	Sean-Louis	66 Fox Road Unit 4B	Edison	NJ	08817	
White	Charlene	39 Morton St	Garnerville	NY	10923 845-429-1186	201 538-3243
Wiener	Charles	28 Chatham Pl	Dix Hills	NY	11746 631-499-8965 (h)	516-228-8766
Wong	William	725 Jefferson Street Unit 2	Hoboken	NJ	07030	
Yeh	Richard	200 East 5 8th Street Apt 14J	New York	NY	10022	
Yelsey	Neil	1 Cliff Pl	Pelham Manor	NY	10803 914-738-2520	
Zachar	Ned	372 Guard Hill Road	Bedford	NY	10506	
Zheng	Xing	18 Cornell Drive	Great Neck	NY	11020	

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served this 8th day of April, 2016 by electronic and certified mail upon the following:

CHAITMAN LLP
Helen Davis Chaitman
465 Park Avenue
New York, NY 10022

Email: hchaitman@chaitmanllp.com

/s/ George Klidonas
*An Attorney for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA
Liquidation of Bernard L. Madoff Investment
Securities LLC and the Estate of Bernard L.
Madoff*